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JAN 26 2006

In re Application of:
PETER G. MIKHAIL
Serial No.: 09/954,801
Filed: 18 September 2001
Title: LOCATION SENSING CAMERA

DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition filed on December 14, 2004, to withdraw the holding of abandonment of the above-identified application under 37 C.F.R. § 1.181.

The petition to withdraw the holding of abandonment is **DISMISSED**.

An Office action (final rejection) was mailed April 16, 2004, setting a three-month shortened statutory period for reply. In the absence of receipt of a response, the application became abandoned.

Petitioner states that he diligently checked his mail and he did not receive the previous Office action, which should have arrived over the summer. Petitioner further states that because he lives in San Francisco, but spent much of the summer in Washington, DC for a job related emergency, his mail was retrieved and routed to him, but he did not receive any correspondence from the Patent Office.

A review of the file record indicates no irregularity in the mailing of the Office action, and in the absence of any irregularity there is a strong presumption that the Office action was properly mailed to petitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of

Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c).

The requirements for the copy of the docket record are set forth in M.P.E.P. § 711.03(c):

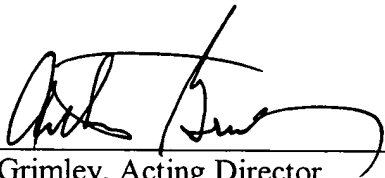
A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

Petitioner does not provide the required documentary evidence showing a record of all Office correspondence received throughout a time range in which the Office action mailed April 16, 2004 would reasonably have been expected to be received.

Since applicant has not made the requisite showing required under M.P.E.P. § 711.03(c), the holding of abandonment is proper.

Request for reconsideration of this decision must be submitted within 2 (two) months of the mailing date of this decision in order to be considered timely.

Any inquiry regarding this decision should be directed to Jose G. Dees, Special Program Examiner, at (571) 272-1569.



Arthur Grimley, Acting Director
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